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10/560,262

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Peter Zatloukal

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EXAMINER

WALSH, DANIEL I

ART UNIT

PAPER NUMBER

2887

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/560,262 | ZATLOUKAL ET AL. | |
| | Examiner | Art Unit | |
| | DANIEL WALSH | 2887 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 12-21-10.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,6-11,13-15,18,19,21,22,26-35,38 and 39 is/are rejected.
- 7) ☒ Claim(s) 4,5,12,16,17,20,23-25,36,37 and 40 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. In view of the Appeal Brief filed on 12-21-10 PROSECUTION IS HEREBY REOPENED. The claims are rejected as set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

/STEVEN S. PAIK/

Supervisory Patent Examiner, Art Unit 2887

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

1. Claims 1-3, 6-8, 13-15, 18-19, 21-22, 26-28, 32-35, 38-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cooper (US 20020123325).

Re claims 1-2, as Cooper teaches (paragraph [0025] + and [0032] +) that the headset (interpreted as the mobile communication/slave), receives an instruction to transmit first data (code/password/identifier) to the RFID reader (phone/master). The Examiner has interpreted the circuitry of the mobile device, such as that responsible for communications, as the transceiver portion which is able to switch between a first and second state (non secure mode (voice mode) and a mode wherein RFID is communicated for authentication). Cooper teaches switching a transceiver of the mobile communications device (headset) from a first state (operating in non-secure mode/voice mode) to a second state (secure mode) (FIG. 2). Cooper teaches the transceiver is configured to output voice call signals in the first state (non secure mode), and that in a

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second state RFID is output for authentication. For purposes of Examination, the Examiner has interpreted the first state as a voice state and the second state as when RFID is outputted. Alternatively, the Bluetooth could be the first state (secure connection) and the second state could be a subsequent RFID communication for a subsequent (separate communication attempt).

Re claim 3, the limitations have been discussed above via the code/password required for authentication.

Re claim 6, the Examiner has interpreted that the use is facilitated in selecting the first data from a plurality of data, in that it is done automatically/electronically. Alternatively, the manual entry of the code/password is interpreted as facilitating the user in selecting the first data, such as by requesting the input, which is an obvious expedient to help with ease of use of the device by providing instructions (paragraph [0025]).

Re claim 7, these limits are taught by the action of communicating the code/password.

Re claim 8, as the data is provided to the mobile communication device, and as it is at a frequency, this is interpreted as a signaling attribute (frequency) that is inherently provided as part of the communication, since the communication is at a frequency.

Re claim 13, as discussed above, the headset can be interpreted as the mobile device which is interpreted as having a transceiver (sum of the communications circuitry wherein the RFID and voice/Bluetooth are separate signal processing sections responsible for voice call signal transmission and RFID transmission. The slave (headset) has a proximity detector to sense the RFID reader (paragraph [0028]). The code is output to the reader (via RFID) and the headset outputs voice call signals for transmission over a

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wireless network. Alternatively, the phone itself can be interpreted as a mobile device, also requiring a password/code input. Thus RFID is output, and a voice call signal can be output as well (voice network in an insecure mode or Bluetooth network in a secure mode)

Re claim 14-15, the limitations have been discussed above, wherein in the state of the headset device, it is sensing/detecting the signal of the reader, interpreted as a probing signal.

Re claim 18, the limitations have been discussed above.

Re claim 19, the limitations have been discussed above re claim 8.

Re claim 21, Cooper teaches a mobile communications device comprising a transmitter having a first signal processing section and a second signal processing section, the first section configured to output voice call signals in a first RF range and the second signal processing section configured to output RFID signals in a second RF range (paragraph [0025]+ and [0032]+ which teach voice calls over a network, RFID activation to secure the headset connection and the voice/Bluetooth connections which are interpreted to teach the first and second sections. Though silent to the frequency range, the Examiner notes it would have been obvious to one of ordinary skill in the art to use conventional frequency ranges for RF (800-900+Mhz) in order to meet spectrum requirements for countries and to comply with known standards. Bluetooth is taught as 2.4Ghz+. CDMA is in the 800Mhz+ range. The Examiner has interpreted that the sum total of the communications circuitry is the transceiver and hence the RFID and Voice/Bluetooth are separate signal processing sections. Though silent to storing first data and instructions, the Examiner notes that Bluetooth at least, is a software

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implemented protocol, broadly interpreted as instructions and a processor are inherent (and thus a storage medium to store first data and instructions would have been obvious in order for the device to function, such as for security key). As discussed above, voice calls are made over a wireless network, and first data is output as an RFID signal employed by an RFID reader when the Bluetooth connection is made. Data can be interpreted as the password/code, for example, and instructions stored, can be interpreted as the software for operation. The limitation "in a format employed by an RFID reader" is sufficiently broad to include frequency/RF signal properties of a signal and does not actually require a RFID reader, and hence the phone can be interpreted as the mobile device. Thus, the Bluetooth and RFID sections (processing) are interpreted to read on the claims, as both are RF frequency, or the voice and (non secure) can be the first mode and Bluetooth can be the second mode as both are radio frequency as well, etc.

Alternatively, the Examiner notes that the Bluetooth headset can be interpreted as the mobile device, wherein a first section outputs voice calls signals in a first RF range (voice communications) and a second section outputs RFID signals in a second RF range (paragraph [0032] and the communication of the communication of the Bluetooth security code). As previously stated, the separate sections for RFID and Bluetooth are interpreted as first and second sections. Processor, first data, and instructions have been discussed above.

As discussed above, and for the claims below the sum total of the circuitry of the mobile device is the transmitter/transceiver, with the RFID and BT as separate states/processing units of the transceiver/transmitter of the mobile device.

Re claim 22, paragraph [0025] teaches a security/identifier as a first data.

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Re claims 26-27, though silent, the Examiner notes that such limitations are obvious to one of ordinary skill in the art in order to make the device easier for the user, as discussed above.

Re claim 28, the limitations have been discussed above re claim 8, wherein frequency is interpreted as a signaling attribute of the signal that is inherent.

Re claim 32, a mobile phone is discussed above.

Re claim 33, the limitations have been discussed above; the Examiner has interpreted the Bluetooth/voice and RFID capability as the first and second operational states of the transmitter of the mobile device. As discussed above, a storage medium to store data (identifiers for example) and instructions and a processor to implement, are obvious expedients well within the ordinary skill in the art for enabling functioning of the device. Though silent to monitoring for a RFID reader, the Examiner notes that as the headset is functioning as a tag, it is understood to be in a mode where it is anticipating an interrogation signal, which can broadly be interpreted as monitoring for a RFID reader and then transmitting a voice call signal as discussed above and RFID signal as discussed above. Further, FIG. 2, 120 teach detecting/sensing a reader signal, interpreted as monitoring. Paragraph [0032] is interpreted as the reader scanning limitations. Thus, the RFID signal is output to the reader upon detection and then a voice call signal can be output once the secure connection is established. Alternatively, a voice call can be output in the non secure mode (or in the Bluetooth mode), and can be switched from/to the RFID mode, since the claim merely recites the transmitter switches between the states, but does not state the order. Thus the limitations of (b) can be interpreted as either the Bluetooth or voice (non-secure) mode.

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Re claim 34, an interrogation signal is interpreted as a probing signal.

Re claim 35, the password/code is interpreted as a security key.

Re claim 38, the Examiner has interpreted the entering/inputting of the data to read on such limitations.

Re claim 39, the limitations have been discussed above wherein frequency is an inherent attribute of the signal.

2. Claims 9-11 and 29-31 rejected under 35 U.S.C. 103(a) as being unpatentable over Cooper, as discussed above, in view of Palmer et al. (US 5530702).

The teachings of Cooper have been discussed above, including monitoring (step 120 FIG. 2).

Cooper is silent to outputting by the transceiver a second data as a RF signal emulating a passive RFID, as Cooper teaches outputting a single RF signal.

Palmer et al. teaches (col 3, lines 50) that a transponder can repeat its response signal several times till it is received, Interpreted as a second data/RF signal emulating a passive RFID.

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to combine the teachings of Cooper with those of Palmer. One would have been motivated to do this to repeat to ensure the signal is received.

Re claim 10, the Examiner has interpreted the device is detecting a signal, broadly interpreted as a probing signal.

Re claim 11, as discussed above the first and second data are the same as the data is sent multiple times to ensure it is received.

Re claims 29-31, the limitations have been discussed above.

Allowable Subject Matter

3. Claims 4, 5, 12, 16-17, 20, 23-25, 36-37, and 40 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

4. The following is a statement of reasons for the indication of allowable subject matter: The prior art of record fails to teach that the security key is one of a garage door key, exterior door key, interior door key, and motor vehicle door key (re claim 4), that said first data comprises an identifier comprising a selected one of a social security number, drivers license number, affinity program account number, and credit card account number (re claim 5), that facilitating of the provisioning of the data to the mobile communications device includes facilitating provision of at least a signaling attribute associated with the outputting of the data into the format employed by the RFID reader (re claim 8), that the communication device is selected one of a wireless mobile phone and a personal digital assistant equipped with communication capability (re claim 12), that the security key comprises a door key (re claim 16), and wherein facilitating of the provisioning of the data to the mobile device includes facilitating provision of at least a signaling attribute associated with the outputting of the data in the format employed by the RFID reader (re claim 19), that the mobile communication device is selected of a wireless mobile phone and a personal digital assistant equipped with communication capability (re claim 20), that the first data comprises a security key as a door key (re claim 23), that said first data comprises an identifier comprising one of a social security number, drivers license number, affinity program account number, and a credit card

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number (re claim 25), that the instructions are further designed to include with said facilitating, provisioning of at least a signaling attribute associated with the outputting of the first data into the form of a radio frequency signal (re claim 28), that the security key comprises a door key (re claim 36), that the instructions are further designed to include with said facilitating, provisioning of at least a signaling attribute associated with the outputting of the data in the form of a radio frequency signal (re claim 39), and that the mobile device is selected of a wireless mobile phone a personal digital assistant equipped with communication capability (re claim 40).

Response to Arguments

5. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.
6. The Examiner further notes that if the Applicants wants a special meaning/definition of a transceiver/transmitter of the device, that such limitations should be placed in the claim body. The Examiner has interpreted the transceiver/transmitter of the device, as discussed above, such as comprising the circuitry capable of performing the RFID and Bluetooth (for voice) communications. Also even the non secure (voice) mode reads on the limitations of voice communication/mode/processing section in some of the claims as it communicates a voice signal.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL WALSH whose telephone number is (571)272-2409. The examiner can normally be reached on M-F 9am-7pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Paik can be reached on 571-272-2404. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/DANIEL WALSH/
Primary Examiner, Art Unit 2887